

Appl. No. 10/626,805
Amdt. Dated 03/02/05
Reply to Office Action of 12/02/04

Amendments to the Drawings:

The attached sheet of drawings includes changes to FIG. 3. This sheet, which includes FIG. 2 and 3, replaces the original sheet including FIGS. 2 and 3. In FIG. 3, previously omitted reference number 18 is added and a ledger member identified as item 19 has also been added.

Attachment: Replacement Sheet

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Remarks/Arguments

Applicant would like to thank the examiner for the thorough review of the present application. Applicant hereby requests and authorizes the examiner to amend the specification by examiner's amendment to include reference numeral 19 as the "ledger" and replace the words "not shown" with reference numeral 19. Applicant has amended the specification and has attached an amended Figure 3 to reflect "the plurality of end portions," as requested by the examiner. Applicant has further amended Figure 3 to include the ledger member identified as numeral 19. Independent claims 1, 4, and 7 have been amended to positively claim a masonry block. Applicant submits no new subject matter has been added because the masonry block was disclosed in the originally filed drawings and the specification.

Applicant respectfully submits no prior art of record discloses the combination of a masonry block with a bolt, toggle member, and separate nut, as recited in applicant's amended independent claims 1, 4, and 7.

The examiner has rejected claims 1-8 under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent No. 5,875,606 to Jensen. Applicant respectfully submits the examiner has mischaracterized Jensen. The examiner asserts Jensen discloses a bolt (2) having an elongated portion (2a) with external threads (5) and an integral arcuate portion end portion (3) positioned in a hollow core of the masonry block and further having the elongated portion (2a) extending outwardly, as recited in applicant's amended independent claims 1, 4, and 7. Applicant respectfully submits Jensen does not disclose a masonry block. Further, the arcuate end portion (2a) of Jensen is positioned exterior of a wall of gypsum board construction. Positioning such arcuate end portion interior of a gypsum wall would render it inoperable by a user because a user would be unable to grasp the arcuate end portion.

The examiner further asserts Jensen discloses a nut threadably positionable at the elongate portion and opposite the toggle member so that the nut is disposed at an exterior of the masonry block, as recited in applicant's amended independent claims 1, 4, and 7. Applicant submits Jensen does not disclose a masonry block. Further, the

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nut (11b) of Jensen is not disposed opposite the toggle member (10), but within the toggle member (10) and is further disposed interior of the gypsum wall board, not exterior of the masonry block. The present invention claims a nut separate and distinct from the toggle member. The examiner further asserts the washer (8) of Jensen is removably positionable between a ledger member and the nut, as recited in applicant's amended claims 2 and 7. Applicant submits the item defined as a ledger member (10) by the examiner is subsequently described as a toggle member (10) by the examiner (see page 3 of detailed action). Applicant further submits the washer (8) of Jensen is used to fit the toggle member (10) to the rod (5) (see Jensen col. 3, lines 47-51), and is not removably positionable between a ledger member and the nut.

The examiner further asserts Jensen has a toggle member (9) having a front surface that engages an interior surface of the masonry block, as recited in applicant's amended claims 1, 4, and 7. Applicant submits Jensen does not disclose a masonry block. Examiner subsequently asserts that Jensen discloses a toggle member (10) having a plurality of end portions being positioned further away from the arcuate end portion when the toggle member is moved to a compressed position than when the toggle member is at a relaxed position. Applicant submits the examiner has used two items (9, 10) of Jensen to teach applicant's sole toggle member. In order to teach applicant's claimed invention, the toggle member must have a front surface engagable with an interior surface of the masonry block and further include end portions positioned further away from the arcuate end portion when compressed than when relaxed. Neither toggle member (9) nor (10) cited by the examiner and disclosed by Jensen, discloses both limitations. In order to teach applicant's claimed invention, the toggle member (9) or the toggle member (10) of Jensen must be reversed to compress in a direction opposite of the direction it currently compresses. However, reversing either toggle member (9) or (10) to teach applicant's claimed invention, would render Jensen inoperable for its disclosed purpose, the repair of gypsum wall board, because the face of the toggle members would then be incapable of creating useful and equal forces against the opposing interior surfaces of the wall (see Jensen col. 1, lines 61-64 and Fig. 1).

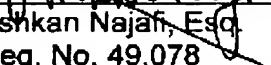
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In view of these considerations, it is respectfully submitted that the rejection of the original claims should be considered as no longer tenable with respect to the amended claims 1, 4, and 7 and the above arguments. All pending dependent claims necessarily include the recitations of their independent claims and therefore are also in condition for allowance. Should the examiner consider necessary or desirable to make formal changes anywhere in the specification, claims and/or drawings, then it is respectfully asked that such changes be made by examiner's Amendment, if the examiner feels this would facilitate passage of the case to issuance. Alternatively, should the examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned attorney.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
Law Office of Ashkan Najafi, P.A.

By


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